

Determination FAQs (10/19/06)

What are the Secretary's "Determinations?"

Based on information provided in the SPP, information obtained through monitoring visits and other public information, the Secretary will determine if the State--

- Meets the requirements
- Needs assistance
- Needs intervention
- Needs substantial intervention

What will OSEP consider in making the "Determinations?"

Department will consider all information available at the time of the determinations including:

- History, nature and length of time of any reported noncompliance
- Evidence of correction, including progress toward full compliance
- Information regarding valid and reliable data
- Special conditions
- Compliance agreements
- Audit findings
- Verification or focused monitoring findings

Are States required to make "Determinations?"

Pursuant to 616(a)(1)(C)(i) and 300.600(a), States are required to make "Determinations" annually under 616(d) on the performance of LEAs/EIS programs.

What should States consider in making their "Determinations?"

States **MUST** consider

- Performance on compliance indicators;
- Whether data submitted by LEAs/EIS programs is valid, reliable, and timely;
- Uncorrected noncompliance from other sources; and
- Any audit findings.

In addition, States could also consider:

- Performance on performance indicators; and
- Other information.

Must States use the same four categories as the Department will use?

- Yes, States must use "Meets Requirements, Needs Assistance, Needs Intervention, and Needs Substantial Intervention."

Is there a deadline for States to make the Determinations for their LEAs or EIS Programs?

- There is nothing in the statute or regulations that addresses a timeline for when States must make Determinations regarding the performance of the LEAs or EIS programs in their States. However, States need to make the Determinations as soon as possible after making their annual report to the public on the performance of each LEA or EIS program. It is important to ensure that LEAs and EIS Programs have time to improve

performance prior to the next reporting to the State by each LEA or EIS program and the State's next Determinations point. In addition, there may be implications for the State's award of funds to LEAs or EIS programs so the State would ideally make its Determinations before grants are issued or contracts are signed or renewed.

Must States report the Determinations of each LEA or EIS Program to the Department and/or the public?

- IDEA does not require States to report to the Department or to the public the Determinations the State makes regarding the performance of each LEA or EIS Program. States, of course, must inform each LEA or EIS Program of the State's Determination regarding that LEA or EIS program.